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In re Application of  
EUWEN, Derk Bastiaan  
U.S. Application No.: 10/530,150  
PCT No.: PCT/NL2003/000593  
Int. Filing Date: 21 August 2003  
Priority Date: 01 October 2002  
Attorney Docket No.: 3135-050936  
For: HOUSING FOR GAS-TREATING  
COMPONENTS, PANEL AND METHOD  
FOR MANUFACTURING SUCH A  
HOUSING

**DECISION ON PETITION  
TO WITHDRAW HOLDING  
OF ABANDONMENT**

This decision is in response to the "Petition to Withdraw Holding of Abandonment Under 37 C.F.R. § 1.181" filed 09 January 2007.

**BACKGROUND**

On 31 January 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. A two-month time limit in which to respond was set with extensions of time available.

On 07 November 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) for failing to respond to the Form PCT/DO/EO/905 mailed 31 January 2006 within the time period set therein.

On 09 January 2007, applicant filed the subject petition along with a \$130.00 petition fee and an executed declaration.

**DISCUSSION**

Applicant claims that the Form PCT/DO/EO/905 "was not received by applicant." This is treated as a petition to withdraw the holding of abandonment based on nonreceipt of an Office communication. See § 711.03(c) Manual of Patent Examining Procedure (MPEP).

The showing required to establish the failure to receive an Office communication consists of: (1) a statement from the practitioner declaring that the Office communication was not received by the practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and, (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioners' statement.<sup>1</sup>

Applicants' statement above is sufficient to satisfy item (1).

However, applicants failed to provide the requisite statement required for a grantable petition under item (2), or submit the evidence required for item (3). Thus, applicants have not met all of the requirements required to establish nonreceipt of an Office action.

### **CONCLUSION**

For the reason discussed above, applicants' petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

The subject application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision.

No fee is required for this type of petition. The \$130.00 petition fee submitted will be credited back to Deposit Account No. 23-0650.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT

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<sup>1</sup> § 711.03(c) MPEP states, in part:

A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

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Legal Administration.

A handwritten signature in black ink, appearing to read "James Thomson". The signature is written in a cursive style with a large, stylized "J" and "T".

James Thomson

Attorney Advisor

Office of PCT Legal Administration

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